KA / BG-GPO / 2515 / WPP-47 / 2009-2011



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೪೪	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಏಪ್ರಿಲ್ ೧೬, ೨೦೦೯ (ಚೈತ್ರ ೨೬, ಶಕ ವರ್ಷ ೧೯೩೧)	ಸಂಚಿಕೆ ೧೬

ಭಾಗ – ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 8 ಕೇಶಾಪ್ರ 2009, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 3ನೇ ಫೆಬ್ರವರಿ 2009

2008ನೇ ಸಾಲಿನ ಡಿಸೆಂಬರ್ 5ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Airports Economic Regulatory Authority of India Act, 2008 (Act No.27 of 2008) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 5th December, 2008/Agrahayana 14, 1930 (Saka)

The following Act of Parliament received the assent of the President on the 5th December, 2008, and is hereby published for general information :-

THE AIRPORTS ECONOMIC REGULATORY AUTHORITY OF INDIA ACT, 2008

No.27 OF 2008

[5th December, 2008]

An Act to provide for the establishment of an Airports Economic Regulatory Authority to regulate tariff and other charges for the aeronautical services rendered at airports and to monitor performance standards of airports and also to establish Appellate Tribunal to adjudicate disputes and dispose of appeals and for matters connected there with or incidental thereto

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows :-

CHAPTER I

PRELIMINARY

1. Short title and commencement and application : This Act may be called the Airports Economic Regulatory Authority of India Act, 2008.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

(3) It applies to –

(a) all airports whereat air transport services are operated or are intended to be operated, other than airports and airfields belonging to or subject to the control of the Armed Forces or paramilitary Forces of the Union;

(b) all private airports and leased airports;

(c) all civil enclaves;

(d) all major airports.

2. Definitions : In this Act, unless the context otherwise requires,—

(a) "aeronautical service" means any service provided—

(i) for navigation, surveillance and supportive communication thereto for air traffic management;

(ii) for the landing, housing or parking of an aircraft or any other ground facility offered In connection with aircraft operations at an airport:

(iii) for ground safety services at an airport;

(iv) for ground handling services relating to aircraft, passengers and cargo at an airport;

(v) for the cargo facility at an airport;

(vi) for supplying fuel to the aircraft at an airport; and

(vii) for a stake-holder at an airport, for which the charges, in the opinion of the Central Government for the reasons to be recorded in writing, may be determined by the Authority; :

(b) "airport" means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes an aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934; (22 of 1934)

(c) "airport user" means any person availing of passenger or cargo facilities at an airport;

(d) "Appellate Tribunal", means the Airports Economic Regulatory Authority Appellate Tribunal established under section 17:

(e) "Authority" means the Airports Economic Regulatory Authority established under sub - section (i) of section 3;

(f) "civil enclave" means an area, if any, allotted at an airport belonging to any armed force of the Union, for use by persons availing of any air transport services from such airport or for the handling of baggage or cargo by such service, and includes land comprising of any building and structure on such area;

(g) "Chairperson" means the Chairperson of the Authority appointed under sub section (2) of section 4,

(h) "leased airport" means an airport in respect of which a lease has been made under section 12A of the Airports Authority of India Act, 1994 (55 of 1994);

(i) "major airport" means any airport which has, or is designated to have, annual passenger throughput in excess of one and a half million or any other airport as the Central Government may, by notification, specify as such;

(j) "Member" means a Member of the Authority and includes the Chairperson;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "private airport" has the same meaning as assigned to it in clause (nn) of section 2 of the Airports Authority of India Act, 1994 (55 of 1994);

(m) "regulations" means regulations made by the Authority under this Act;

(n) "service provider" means any person who provides aeronautical services and is eligible to levy and charge user development fees from the embarking passengers at any airport and includes the authority which manages the airport;

(o) "stake-holder" includes a licensee of an airport, airlines operating thereat, a person who provides aeronautical services, and any association of individuals, which in the opinion of the Authority, represents the passenger or cargo facility users;

(p) words and expressions used but not defined in this Act and defined in the Airports Authority of India Act, 1994 shall have the same meanings respectively assigned to them in that Act.

CHAPTER II

THE AIRPORTS ECONOMIC REGULATORY AUTHORITY

3. Establishment of Authority : (1) The Central Government shall, within three months from the date of commencement of this Act, by notification in the Official Gazette, establish an Authority, to be known as the Airports Economic Regulatory Authority, to exercise the powers conferred on, and the functions assigned to it, by or under this Act.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be at such place as the Central Government may, by notification in the Official Gazette, specify.

4.Composition of Authority : (1) The Authority shall consist of a Chairperson and two other Members to be appointed by the Central Government:

Provided that whenever the Authority is deciding a matter involving a civil enclave in a defence airfield, there shall be an additional Member, not below the rank of Additional Secretary to the Government of India, to be nominated by the Ministry of Defence.

(2) The Chairperson and Members of the Authority shall be appointed by the Central Government from amongst persons of ability and integrity having adequate knowledge of, and professional experience in, aviation, economics, law, commerce or consumer affairs:

Provided that a person who is or has been in the service of Government shall not be appointed as a Member unless such person has held the post of Secretary or Additional Secretary to the Government of India or any equivalent post in the Central or State Government for a total period of not less than three years;

(3) The Chairperson and other Members shall be whole-time Members.

(4) The Chairperson or other Members shall not hold any other office.

(5) The Chairperson shall be the Chief Executive of the Authority.

(6) The Chairperson and other Members of the Authority shall be appointed by the Central Government on the recommendation of Selection Committee referred to in section 5.

5. Constitution of Selection Committee to recommend Members : (1) The Central Government shall, for the purpose of sub-section (6) of section 4 constitute a Selection Committee consisting of the following, namely:—

(a) Cabinet Secretary	-	Chairman;
(b) Secretary, in the Ministry of Civil Aviation	-	Member;
(c) Secretary, Department of Legal Affairs in the Ministry of Law and Justice	-	Member;.
(d) Secretary, in the Ministry of Defence	-	Member;
(e) One expert to be nominated by the Ministry of Civil Aviation	-	Member.

(2) The Central Government shall within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or end of tenure of the Chairperson or any Member, make a reference to the Selection Committee for filling up of the vacancy.

(3) The Selection Committee shall finalise the selection of the Chairperson and Members within one month from the date on which the reference is made to it.

(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(5) Before recommending any person for appointment as a Chairperson or other Member of the Authority, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions a Member

(6) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee,

6. Terms of office and other conditions of service, etc., of Chairperson and Members : (1) The Chairperson and other Members, shall hold office, as such, for a term of five years from the date on which he enters upon his office, but shall not be eligible for re-appointment: '

Provided that no Chairperson or other Member shall hold office, as such, after he attains —

(a) In the case of the Chairperson, the age of sixty-five years; and

(b) In the Case of any other Member, the age of sixty-two years.

Explanation.- For the purposes of this sub-section, a Member may be appointed as Chairperson of the Authority, but a person, who has been the Chairperson shall not be eligible for appointment as a Member,

(2) The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members shall be such as may be prescribed.

(3) The salary, allowances and other conditions of service of the Chairperson and other Members shall not be varied to their disadvantage after their appointment.

(4) Notwithstanding anything contained in sub - section (1), the Chairperson or any Member may,—

(a) relinquish his office by giving, in writing to the Central Government, a notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 8.

(5) The Chairperson or any Member ceasing to hold office, as such, shall—

(a) be ineligible for further employment under the Central Government or any State Government for a period of two years from the date he ceases to hold such office;

(b) not accept any commercial employment including private for a period of two years from the date he ceases to hold such office; or

(c) not represent any person before the Authority in any other manner.

Explanation.- For the purposes of this sub – section-

(a) "employment under the Central Government or State Government" includes employment under any local or other authority within the territory of India or under 'the control of the Central Government or State Government or under any corporation or society owned or controlled by the Government.

(b) "commercial employment" means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in any field and includes also a director of a company or partner of a firm and It also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.

7. Power of Chairperson : The Chairperson shall have powers of general superintendence and directions in the conduct of the affairs of the Authority and he shall, in addition to presiding over the

meetings of the Authority, exercise and discharge such powers and functions of the Authority and shall discharge such other powers and functions as may be prescribed.

8. Removal and suspension of Members : (1) The Central Government may, by order, remove from office the Chairperson or other Member, if the Chairperson or such other Member, as the case may be,—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interest, as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position, as to render his continuance in office prejudicial to the public interest; or

(f) has engaged at any time during his term of office in any other employment.

(2) The Chairperson or any other Member shall not be removed from his office except by an order of the Central Government on the ground of his proved misbehavior or incapacity after the Central Government, has, on an inquiry, held in accordance with the procedure prescribed in this behalf by the Central Government, come to the conclusion that the Member ought on any such ground to be removed

(3) The Central Government may suspend any Member in respect of whom an inquiry under sub-section (2) is being initiated or pending until the Central Government has passed an order on receipt of the report of the inquiry

9. Appointment of Secretary. experts, professionals and officers and other employees of Authority. : (1) The Central Government may appoint a Secretary to discharge his functions under this Act.

(2) The Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(3) The salaries and allowances payable to and other terms and conditions of service of the Secretary and officers and other employees of the Authority and the number of such officers and other employees shall be such as may be prescribed.

(4) The Authority may engage, in accordance with the procedure specified by regulations such number of experts and professionals of integrity and outstanding ability, who have special knowledge of, and experience in, economics, law, business or such other disciplines related to aviation as it deems necessary to assist the Authority in the discharge of its functions under this Act.

10. Meetings : (1) The Authority shall meet at such places and times and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings), as may be determined by regulations.

(2) The Chairperson shall preside at the meeting of the Authority and if for any reason the Chairperson is unable to attend a meeting of the Authority, any other Member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3)All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the Members present and voting and, in the event of an equality of votes, the Chairperson or the Member presiding shall have the right to exercise a second or casting vote.

(4) Save as otherwise provided in sub-section (l), every Member shall have one vote.

11. Authentication : All orders and decisions of the Authority shall be authenticated by signatures of' the Secretary or any other officer of the Authority, duly authorised by the Authority in this behalf.

12. Vacancies etc not to invalidate proccedings of Authority : No act or proceedings of the Authority shall be invalid merely by reason of-

(a) any vacancy in, or any defect in, the constitution of the Authority; or

(b) any defect in the appointment of a person acting as a Member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

CHAPTER III

POWERS AND FUNCTIONS OF THE AUTHORITY

13. Functions of Authority : (1) The Authority shall perform the following functions in respect of major airports, namely:—

(a) to determine the tariff for the aeronautical services taking into consideration

(i) the capital expenditure incurred and timely investment in improvement of airport facilities;

(ii) the service provided its quality and other relevant factors

(iii) the cost for improving efficiency;

(iv) economic and viable operation of major airports;

(v) revenue received from services other than the aeronautical services;

(vi) the concession offered by the Central Government in any agreement or memorandum of understanding or otherwise;

(vii) any other factor which may be relevant for the purposes of this Act:

Provided that different tariff structures may be determined for different airports having regard to all or any of the above considerations specified at sub-clauses (i) to (vii);

(b) to determine the amount of the development fees in respect of major airports;

(c) to determine the amount of the passengers service fee levied under rule 88 of the Aircraft Rules, 1937 made under the Aircraft Act, 1934 (22 of 1934);

(d) to monitor the set performance standards relating to quality, continuity and reliability of service as may be specified by the Central Government or any authority authorised by it in this behalf;

(e) to call for such information as may be necessary to determine the tariff under clause (a);

(f) to perform such other functions relating to tariff, as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of this Act.

(2) The Authority shall determine the tariff once in five years and may if so considered appropriate and in public interest, amend, from time to time during the said period of five years, the tariff so determined.

(3) While discharging its functions under sub-section (i) the Authority shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

(4) The Authority shall ensure transparency while exercising its powers and discharging its functions, inter alia

(a) by holding due consultations with all stake—holders with the air port;

(b) by allowing all stake-holders to make their submissions to the authority; and

(c) by making all decisions of the authority fully documented and explained

14. Powers of Authority to call for information, conduct investigations, etc : (i) Where the Authority considers it expedient so to do, it may by order in writing

(a) call upon any service provider at any time to furnish in writing such information or explanation relating to its functions as the Authority may require to access the performance of the service provider; or

(b) appoint one or more persons to make an inquiry in relation to the affairs of any service provider; and

(c) direct any of its officers or employees to inspect the books of account or other documents of any service provider.

(2) Where any inquiry in relation to the affairs of a service provider has been undertaken under sub - section (i)

(a) every office of the Government department, if such service provider is a department of the Government; or

(b) every director, manager, secretary or other officer, if such service provider is a company, of

(c) every partner manager secretary or other officer if such ser vice provider or

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (b) or (c), shall be bound to produce before the Authority making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subject matter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto as the case may be, required of him, within such time as may be specified.

(3) Every service provider shall maintain such books of account or other documents as may be prescribed '

(4) The Authority shall have the power to issue such directions to monitor the performance of the service providers as it may consider necessary for proper functioning by service providers.

15. Power of Authority to issue certain directions : The Authority may, for the purpose of discharge of its functions under this Act, issue, from time to time to the service providers, such directions, as it may consider necessary.

16. Power of seizure : The Authority or any other officer specially authorised by it in this behalf may enter-any building or place where the Authority has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974) in so far as they may be applicable.

CHAPTER IV

APPELLATE TRIBUNAL

17. Establishment of Appellate Tribunal : The Central Government shall, by notification in the Official Gazette, establish an Appellate Tribunal to be known as the Airports Economic Regulatory Authority Appellate Tribunal to –

(a) adjudicate any dispute—

(i) between two or more service providers;

(ii) between a service provider and a group of consumer:

Provided that the Appellate Tribunal may, if considers appropriate, obtain the opinion of the Authority, on any matter relating to such dispute;

Provided further that nothing in this clause shall apply in respect of matters—

(i) relating to the monopolistic trade practice, restrictive trade practice and unfair trade practice which are subject to the jurisdiction of the Monopolies and Restrictive Trade Practices Commission established under sub-section (1) of section 5 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969);

(ii) relating to the complaint of an individual consumer maintainable before a Consumer Disputes Redressal Forum or a Consumer Disputes Redressal Commission or the National Consumer Redressal Commission established under section.9. of the Consumer Protection Act, , 1986 (68 of 1986) ;

(iii) which are within the purview of the Competition Act, 2002 (12 of 2003),

(iv) relating to an order of eviction which is appealable under section 28K of the Airports Authority of India Act, 1994 (55 of 1994)

(b) hear and dispose of appeal against any direction, decision or order of the Authority under this Act.

18. Application for settlement of disputes and appeals to Appellate Tribunal : (1) The Central Government or a State Government or a local authority or any person may make an application to the Appellate Tribunal for adjudication of any dispute as referred to in clause (a) of section 17,'

(2) The Central Government or a State Government or a local authority or any person aggrieved by any direction, decision or order made by the Authority may prefer an appeal to the Appellate Tribunal.

(3) Every appeal under sub - section (2) shall be preferred within a period of thirty days from the date on which a copy of the direction or order or decision made by the Authority is received by the Central Government or the State Government or the local authority or the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain any appeal after the expiry of the said period of thirty days if it is satisfied that there was, sufficient cause for not filing it within that period.

(4) On receipt of an application under sub-section (i) or an appeal under sub-section (2), the Appellate Tribunal may, after giving the parties to the dispute or the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, '

(5) The Appellate Tribunal shall send a copy of every order made by it to the parties to the dispute or the appeal and to the Authority, as the case may be.

(6) The application made under sub-section (1) or the appeal preferred under sub section (2) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application or appeal finally within ninety days from the date of receipt of application or appeal, as the case maybe:

Provided that where any such application or appeal could not be disposed of within the said period of ninety days, the Appellate Tribunal shall record its reasons in writing for not disposing of the application or appeal within that period.

(7) The Appellate Tribunal may, for the purpose of examining the legality or propriety or correctness, of any dispute made in any application under sub-section (1), or of any direction or order or decision of the Authority, referred to in the appeal preferred under subsection (2), on its own motion or otherwise, call for the records relevant to disposing of such application or appeal and make such orders as it thinks fit.

19. Composition of Appellate Tribunal : (1) The Appellate Tribunal shall consist of a Chairperson and not more than two Members to be appointed, by notification in the official Gazette, by the Central Government:

Provided that the chairperson or a Member holding a post as such in any other Tribunal established under any law for the time being in force in addition to his being the Chairperson or a Member of that Tribunal, may be appointed as the Chairperson or a Member, as thè case may be, of the Appellate Tribunal under this Act. .

(2) The selection of Chairperson and Members of the Appellate Tribunal shall be made by the Central Government in consultation with the Chief Justice of India or his nominee.

20.Qualifications for appointment of Chairperson and Members.- A person shall not be qualified for appointment as the Chairperson or a Member of the Appellate Tribunal unless he-

(a) in the case of Chairperson, is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court;

(b) in the case of a Member, has held the post of Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a total period of not less than two years in the Ministries or Departments dealing with aviation or economics or law or a person who is well - versed in the field of aviation or economics or law.

21. Term of office : The Chairperson and every other Member of the Appellate Tribunal shall hold office as such for a term not exceeding three years from the date on which he enters upon his office .

Provided that no Chairperson or other Member shall hold office as such after he has attained,-—

(a) in the case of Chairperson, the age of seventy years;

(b) In the case of any other Member, the age of sixty - five years.

22. Terms and conditions of service : The salary and allowances payable to and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson. or a Member of the Appellate Tribunal shall be varied to his disadvantage after appointment.

23. Vacancies : If for reason other than temporary absence, any vacancy occurs in the office of the Chairperson or a Member of the Appellate Tribunal, the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the 'proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled

24. Removal and resignation : (1) The Central Government may remove from office, the Chairperson or any Member of the Appellate Tribunal, who— .

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as the Chairperson or a Member; or '

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) Notwithstanding anything contained in sub - section (1), the Chairperson or a member of the Appellate Tribunal shall not be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the Supreme Court on a reference being made to it in this behalf by the Central Government, has, on an enquiry, held by it in accordance with such procedure as It may specify In this behalf, reported that the Chairperson or a Member ought, on such grounds, to be removed

(3) The Central Government may suspend from office, the Chairperson or a Member of the Appellate Tribunal In respect of whom a reference has been made to the Supreme Court under sub - section (2), until the Central Government has passed an order on receipt of the report of the Supreme Court on such reference

25. Staff of Appellate Tribunal : (1) The Central Government shall provide the Appellate Tribunal with such officers and employees as it may deem fit.

(2) The officers and employees ofthe Appellate Tribunal shall discharge their functions under the general superintendence of its Chairperson.

(3) The salaries and allowances and other conditions of service of such officers and employees of the Appellate Tribunal shall be such as may be prescribed.

26. Decision to be by majority : If the Chairperson and other Members differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.

27. Members etc to be public servants : The Chairperson, Members and other officers .and employees of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 (45 of 1860) of the Indian Penal Code.

28. Civil court not to have jurisdiction : No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Appellate Tribunal is empowered by or under this Act to determine and no Injunction shall be granted by any court or other authority in respect of any action taken or to be taken In pursuance of any power conferred by or under this Act.

29. Procedure and powers of Appellate Tribunal : (1) The Appellate Tribunal shall 'not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Appellate Tribunal shall have powers to regulate its own procedure.

(2) The Appellate 'Tribunal shall 'have, for the purposes of discharging its 'functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents,

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or a copy of such record or document, from any office;

(e) issuing commissions for the examination of witnesses or documents;.

(f) reviewing its decisions,

(g) dismissing an application for default or deciding it, exparte,

(h) setting aside any order of dismissal of any application for default or any order passed by it, exparte, and

(i) any other matter which may be prescribed

(3) Every proceeding before the Appellate Tribunal shall be deemed to be a judicial, proceeding within the meaning of sections 193 and 228 (45 of 1860), and for the purposes of section 196 ót the Indian Penal Code and the Appellate Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974)

30. Right to legal representation : The applicant or appellant may either appear in person or authorises one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of Its officers to present his or Its case before the Appellate Tribunal

Explanation — For the purposes of this section,

(a) "chartered accountant" means a chartered accountant as defined in clause

(b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act,

(b) "company secretary" means a company secretary as defined in clause (c) of sub - section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act,

(c) cost accountant" means a cost accountant as defined in clause (b) of subsection (1) of section 2 of the Cost and Works Accountants Act, 1959, (23 of 1959) and who,has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a plender in practice

31 Appeal to Supreme Court : (1) Notwithstanding anything contained In the Code of Civil Procedure, 1908 (5 of 1908) or in any other law, an appeal shall lie against any order, not being an interlocutory order, of the' Appellate Tribunal to the Supreme Court on one or more of the grounds specified in section 100 of that Code. ' '

(2) No appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties.

(3) Every appeal under this section shall be preferred within a period of ninety days from the date of the decision or order appealed against:

Provided that the Supreme Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time

32. Orders passed by Appellate Tribunal to be executable as a decree : (1) An order passed by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of civil court, and for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

(2) .Notwithstanding anything contained in sub-section (1), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court..

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

33. Budget : The Authority shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Authority and forward the same to the Central Government, for information.

34. Grants by Central Government : The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as are required to be paid for the salaries and allowances payable to the Chairperson and other Members and the administrative expenses, including the salaries and allowances and pension payable to or in respect of officers and other employees of the Authority.

35. Annual statement of accounts : (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation, with the Comptroller and Auditor-General of India,

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him

(3) The Comptroller and Auditor-General of India or any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights, privileges and authority in connection with such audit, as the Comptroller and Auditor - General of India generally has, in connection with the audit of the Government accounts and, in particular shall have the right to demand the production of books, accounts, connected vouchors and other documents and papers and to Inspect any of the offices of the Authority.

(4) The accounts of the Authority, as certified by Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and the Central Government shall cause the same to be laid before each House of Parliament.

36. Furnishing of returns, etc., to Central Government : (1) The Authority shall furnish to the Central Government, at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may from time to time, require

(2) The Authority shall prepare, once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(3) A copy of the report received under sub-section (2) shall be laid by the Central Government, as soon as may be after it is received, before each House of parliament

CHAPTER VI

OFFENCES AND PENALTIES

37. Penalty for wilful failure to comply with orders of Appellate Tribunal : If any person wilfully fails to comply with the order of the Appellate Tribunal, he shall be punishable with fine which may extend to one lakh rupees and in case of a second or subsequent offence with fine which may extend to two lakh rupees and in the case of continuing contravention with additional fine which may extend to two lakh rupees for every day during which such default continues.

38. Punishment for non-compliance of orders and directions under this Act : Whoever fails to comply with any order or direction given under this Act, or' contravenes, or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder shall be punishable with fine which may extend to one lakh rupees and in the case of a second or subsequent offence with fine which may extend to two lakh rupees and in the case of a continuing contravention with an additional fine which may extend to four thousand rupees for every day during which the default continues.

39. Punishment for non-compliance with order of Authority or Appellate Tribunal : If any person wilfully fails to comply with an order of the Authority or of the Appellate Tribunal, passed under Chapter IV, he shall be punishable with fine which may' extend to one lakh rupees and, in the case of a second or subsequent offence, with fine which may extend to two lakh rupees and in the case of a Continuing failure, with an additional fine which may extend to four thousand rupees for every day during which such failure continues.

40. Offences by companies : (1) Where an offence under this Act has been committed by a, company, every person who, at the time the offence was committed, was in charge of and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained In sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section—

a) “company” means any body corporate and includes a firm or other association -of individuals; and

(b) "director" means a whole-time director in the company and in relation to a firm, means a partner in the firm.

41. Offences by Government Departments : (1) Where an offence under this Act has been committed by any Department of Government or any of its undertakings, the Head of the Department or its undertakings shall be deemed to be guilty of an offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by any Department of Government or its undertakings and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, or its undertakings, such officer shall also be deemed to be guilty of that offence and shall beliable to be proceeded against and punished accordingly.

CHAPTER VII

MISCELLANEOUS

42. Directions by Central Government : (1) The Central Government may, from time to time, issue to the Authority such directions as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

(2)Without prejudice to the foregoing provisions, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(3) The decision of the Central Government whether a question is one of policy or not shall be final.

43. Members, officers and employees of Authority to be public servants : The Chairperson, Members, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act to be public servants within the meaning of section 21 (45 of 1860), of the Indian Penal Code.

44. Bar of Jurisdiction : No civil court shall have jurisdiction in respect of any matter which the Authority is empowered by or under this Act to determine.

45. Protection of action taken in good faith : No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any Member, officer or other employees thereof for anything which is in good faith done or intended to be done under this Act or the rules and regulations made thereunder.

46. Exemption from tax on wealth and income : Notwithstanding anything contained in the Wealth-tax Act, 1957 (27 of 1957), the Income - tax Act, 1961 (43 of 1961), or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Authority shall not be liable to pay wealth - tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

47. Cognizance of offences : No court shall take cognizance of an offence punishable under this Act, except upon a complaint in writing made by the Authority or by any officer of the Authority duly authorised by the Authority for this purpose.

48. Delegation of powers : The Authority may, by general or special order in writing, delegate to the Chairperson or any Member or officer of the Authority, subject to such conditions and limitations, if

any, as may be specified in the order, such of its powers and functions under this Act (except the power to settle disputes and the power to make regulations), as It may deem necessary.

49. Power of Central Government to supersede Authority : (1) If, at any time, the Central Government is of opinion

(a) that on account of a grave emergency, the Authority is unable to discharge the functions and duties imposed on it by or under the provisions of this Act, or

(b) that the Authority has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of- which default, the financial position of the Authority or the administration of any airport, heliport, airstrip, civil enclave or aeronautical communication station has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable opportunity to the Authority to show cause as to why it should not be superseded and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

a) all the Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall until the Authority is re-constituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct;

(c) all property owned or controlled by the Authority shall, until the Authority is re-constituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may,—

(a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or

(b) re-constitute the Authority by fresh appointment and in such case the Members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament at the earlist opportunity

50. application of other laws not barred : The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

51. Power to make rules : (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salary and allowances payable to, and the other conditions of service of, the Chairperson and other Members under sub-section (2) of section 6;

(b) the form and manner in which and the Authority before whom the oath of office and secrecy shall be made and subscribed under sub-section (4) of section 6;

(c) the powers and functions to be exercised or discharged by the Chairperson under section 7:

(d) the procedure for conducting any inquiry made under sub - section (2) of section 8;

(e) the salaries and allowances payable to, and the other terms and conditions of service of the Secretary, officers and other employees of the Authority under subsection (3) of section 9;

(f) the performance standards relating to the quality, continuity and reliability of service to be monitored under clause (d) of sub- section (1) of section 13;

(g) the books of account or other documents which are required to be maintained by the service provider under sub-section (3) of section 14;

(h) the form and manner in which the form shall be verified and fee to be accompanied by the form under sub-section (3) of section 18;

(i) the salary and allowances payable to, and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal under section 22;

(J) the salaries and allowances and other conditions of service of such officers and employees of the Appellate Tribunal under sub-section (3) of section 25;

(k) the matters in respect of which the Authority will have the powers of a civil court under clause (a) of sub-section (2) of section 29;

(l) the form in which the Authority shall prepare, and at such time in each financial year, its budget and the time at which such budget shall be prepared under section 33;

(m) the form in which proper accounts and other relevant records shall be maintained and the annual statement of accounts shall be prepared by the Authority under sub-section (1) of section 35;

(n) the form, manner and the time in which the returns and statements shall be furnished by the Authority under sub-section (1) of section 36;

(o) the form and time at which the annual report shall be prepared by the Authority under sub-section (2) of section 36;

(p) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

52. Power to make regulations : (1) The Authority may, by notification in the Official Gazette, and with the previous approval of the Central Government, make regulations, not inconsistent with this Act, and the rules made thereunder, to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:

• • (a) the procedure in accordance with which the experts and professionals may be engaged under sub-section (4) of section 9;

(b) the places and time of meetings of the Authority and the procedure to be followed at such meetings, (including the quorum at its meetings) under sub-section (1) of section 10;

(c) any other matter which is required to be, or may be, specified by regulations.

53. Rules and regulations to be laid before Parliament : Every rule made by the Central Government, and every regulation made by the Authority, under this Act shall be laid, as soon as may be after it is made, before each House of parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should

not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

54. Amendment of certain enactments : The enactments specified in the schedule to this Act shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Authority

55. Power to remove difficulties : (1) if any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE SCHEDULE

[See section 54]

AMENDMENT THE AIRCRAFT ACT, 1934

(22 OF 1934)

Section 5, sub-section (2), clause (ab), for "or revision on tariff of operators of airtransport services", substitute "or revision on tariff of operators of air transport services [other than the tariff referred to in clause (a) of sub - section (1) of section 13 of the Airports Economic Regulatory Authority of India Act, 2008)"

AMENDMENT TO THE AIRPORTS AUTHORITY OF INDIA ACT, 1994

(55 of 1994)

1. Section 22A, for the portion beginning with the words "The Authority may" and ending with the words "for the purposes of— ", substitute the following:—

"The Authority may,—

(i) after the previous approval of the Central Government in this behalf levy on, and collect from, the embarking passengers at an airport other than the major airports referred to in clause (h) of section 2 of the Airports Economic Regulatory Authority of India Act, 2008 the development fees at the rate as may be prescribed;

(ii) levy on, and collect from, the embarking passengers at major airport referred to in clause (h) of section 2 of the Airports Economic Regulatory Authority of India Act, 2008 the development fees at the rate as may be determined under clause (of sub - section (1) of section 13 of the Airports Economic Regulatory Authority of India Act, 2008,

and such fees shall be credited to the Authority and shall be regulated and utilised in the prescribed manner, for the purposes of-

2. Section 41, in sub-section (2), clause (ee), for "the rate of development fees and", substitute—

"the rate of development fees in respect of airports other than major airports and".

T.K. VISWANATHAN,

Secy, to the Govt. of India

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್. ಆಂಜಿನಿ

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

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